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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/991,096

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Michael Sawyer

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06/07/2006

GATEWAY, INC.

ATTN: Patent Attorney

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EXAMINER

HAMZA, FARUK

ART UNIT

PAPER NUMBER

2155

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/991,096

Applicant(s)

SAWYER, MICHAEL

Examiner

Faruk Hamza

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to RCE***

1. This action is responsive to the communication filed on April 19, 2006. Claims 1-4,6,9-10,12,16,20-23,25-26 and 28-34 have been amended. Claims 1-34 are now pending.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1,10,12 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the user's interaction" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the user's out-of-box interaction" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the unloaded" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "the capability" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "the user's interaction" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 32 recites the limitation "the user's specifications" in line 4. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-17, 19-26, 29 and 31-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Davenport et al (U.S. Patent Number 6,901, 536) hereinafter referred as Davenport.

Davenport teaches the invention as claimed including a system to measure usage, performance and status of a computer system so that a manufacturer can learn more about usage of their product (See abstract).

As to claim 1, Davenport teaches a system for remotely determining a user's out-of-box experience with a personal computer, comprising:

a user personal computer configured to detect and upload data characterizing the user's interaction with the personal computer during an initial setup of the user personal computer (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16, Davenport discloses a system capable of detecting user interaction with a computer and uploading that data);

a network suitable for communicating uploaded data, wherein the network is connected to the user personal computer (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16, Davenport discloses uploading user interaction data over the network); and

a remote information handling system connected to the network, wherein the remote information handling system is suitable for receiving uploaded data from the personal computer (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16, Davenport discloses information handling system receiving interaction data over the network).

As to claim 2, Davenport teaches the system of claim 1, wherein the personal computer is capable of automatically uploading user interaction data (Column 6, lines 66-Column 7, lines 17).

As to claim 3, Davenport teaches the system of claim 1, wherein the personal computer is capable of offering an opportunity to upload user interaction data (Column 6, lines 66-Column 7, lines 17).

As to claim 4, Davenport teaches the system of claim 1, wherein the remote information handling system is capable of correlating the uploaded data with the personal computer's pre-loaded configuration (Column 6, lines 66-Column 7, lines 17).

As to claim 5, Davenport teaches the system of claim 10, wherein user interaction data is at least one of an occurrence of an event, a time interval between events, a user input, "HELP" button utilization, a time period to load a program, an accessed program's name, an installation of a driver, a screen capture, a time period a dialog box is open (Column 8, lines 43-Column 9, lines 34).

As to claim 6, Davenport teaches the system of claim 1, wherein personal computer detects user interaction data as a background application (Column 3, lines 20-26).

As to claim 7, Davenport teaches the system of claim 1, wherein the user's interactions are detected for at least one of an initial boot-up, a specific number of boot operations, a time period, and after a program has been started a specific number of times (Column 7, lines 33-56).

As to claim 8, Davenport teaches the system of claim 1, wherein the network is an INTERNET (Column 6, lines 34-50).

As to claim 9, the system of claim 1, wherein the personal computer is capable of surveying the user (Column 2, lines 41-65).

As to claim 10, Davenport teaches a system for remotely determining a user's out-of-box experience with a personal computer, comprising:

a user personal computer capable of detecting and uploading data related to the user's out-of-box interaction with personal computer during initialization (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16);

a network suitable for communicating uploaded data, wherein the network is connected to the personal computer (Fig. 2, Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16); and

a remote information handling system connected to the network, wherein the remote information handling system is suitable for receiving the unloaded data from the personal computer (Fig. 2, Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16).

As to claim 11, Davenport teaches the system of claim 10, wherein the network is an INTERNET (Column 6, lines 34-50).

As to claim 12, Davenport teaches a method for remotely determining a user's out-of-box experience with a personal computer, comprising:

providing the user personal computer with the capability of detecting data related to the user's interactions with the personal computer (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16);

initializing the user personal computer including user interaction detecting capability, by the user (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16);

detecting, during the initializing by the user, data related to the user's interactions with the personal computer during initialization (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16);

compiling the detected user interaction data (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16);



uploading the user interaction data to a network (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16);

communicating user interaction data to a remote information handling system (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16).

As to claim 13, Davenport teaches the method of claim 12, further comprising offering an incentive to upload user interaction data (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16).

As to claim 14, Davenport teaches the method of claim 12, wherein uploading user interaction data is conducted automatically (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16).

As to claim 15, Davenport teaches the method of claim 12, wherein uploading user interaction data is initiated by the user (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16).

As to claim 16, Davenport teaches the method of claim 12, wherein detecting the user's interactions with the personal computer is conducted as a background operation (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16).

As to claim 17, Davenport teaches the method of claim 12, wherein uploading compiled user interaction data is conducted after at least one of an initial boot-up, after a specific number of boot operations, and a time period (Column 7, lines 19-65).

As to claim 19, Davenport teaches the method of claim 18, further comprising correlating survey information with user interaction data (Column 2, lines 41-Column 3, lines 25).

As to claim 20, Davenport teaches a method, comprising:

detecting an initialization of a user when the user sets up a user personal computer (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16);

saving the initialization activity detected in said detecting step to a file (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16);

uploading the file to an originator of the user personal computer wherein the initialization activity of the user is correlated by the originator (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16).

As to claim 21, a method as claimed in claim 20, further comprising the step of correlating the initialization activity of the user, determining whether a change in the initialization is needed, and, in the event a change is needed, modifying an initialization process for new personal computer in response to the analyzed initialization activity of the user (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16).

As to claim 22, Davenport teaches a software system for remotely detecting a user's out-of-box experience for a personal computer, comprising:

a computer-readable medium containing;

a first software program capable of causing a user personal computer to perform a function (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16); and

a second software program capable of causing the personal computer to detect and compile the user's initial interactions with the personal computer performing the first software program (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16);

wherein the second software program is a background application (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16); and

wherein the second software program is capable of causing the user personal computer to upload the compiled data to a remote information handling

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system (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16).

As to claim 23, Davenport teaches an apparatus, comprising:

means for detecting an initialization activity of a user when the user initializes a personal computer (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16);

means for saving the initialization activity detected by said monitoring means to a file (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16); and

means for uploading the file to an originator of the user personal computer wherein the initialization activity of the user is correlated by the originator (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16).

As to claim 24, Davenport teaches an apparatus as claimed in claim 23 wherein the originator correlates the initialization activity of the user so that a future system can be configured in response to the correlated initialization activity of the user (Column 2, lines 41-Column 3, lines 25; Column 11, lines 33-Column 12, lines 16).

As to claim 25, Davenport teaches the system of claim 1, wherein the initial setup of the user personal computer comprises an initial boot-up of

the user personal computer and establishing the user personal computer into an operating state by the user (Column 7, lines 19-65).

As to claim 26, Davenport teaches the system of claim 1, wherein the initial setup of the user personal computer is limited to an initial boot-up of the user personal computer and establishing the user personal computer into an operating state by the user (Column 7, lines 19-65).

As to claim 29, Davenport teaches the system of claim 1, wherein the data related to the user's interaction comprises data about a time period between two designated events during the initial setup of the user personal computer (Column 7, lines 19-65).

As to claim 31, Davenport teaches the system of claim 1, wherein the data related to the user's interaction comprises data about an error message displayed during the initial setup of the user personal computer (Column 10, lines 43-65).

As to claim 32, Davenport teaches the method of claim 12, wherein initializing the user personal computer comprises making changes to the user personal computer to conform to the user's specifications (Column 7, lines 19-65).

As to claim 33, Davenport teaches the method of claim 12, wherein the step of uploading the user interaction data to the network is initiated after a specific number of boot operations after an initial boot operation on the user personal computer (Column 7, lines 19-65).

As to claim 34, Davenport teaches the method of claim 12, wherein the step of uploading the user interaction data to the network is initiated after a predetermined time period after an initial boot operation on the user personal computer (Column 7, lines 19-65).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Davenport teaches the invention substantially as claimed including a system to measure usage, performance and status of a computer system so that a manufacturer can learn more about usage of their product (See abstract).

4. Claims 18 and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davenport as applied above, and further in view of Official Notice.

As to claim 18, Davenport teaches the method of claim 12 (Column 2, lines 41-Column 3, lines 25).

Davenport does not explicitly teach the claim limitation of surveying the user about information regarding demographic data and user opinion.

However, "Official Notice" is taken that the concept and advantages of surveying the user about information regarding demographic data and user opinion is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Davenport by adding functionality of surveying the user about information regarding demographic data and user opinion, which will help manufacturer to provide user's need. One would be motivated to do so to enhance the system's performance.

As to claim 27, Davenport teaches data related to user's interaction (Column 2, lines 41-Column 3, lines 25).

Davenport does not explicitly teach the claim limitation of screen capture.

However, "Official Notice" is taken that screen capture is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Davenport by adding screen capture, which will provide

more user's interaction with the system to manufacturer. One would be motivated to do so to enhance the system's performance.

As to claim 28, Davenport teaches data related to user's interaction (Column 2, lines 41-Column 3, lines 25).

Davenport does not explicitly teach the claim limitation of data about a time period that a dialog box is open.

However, "Official Notice" is taken that data about a time period that a dialog box is open is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Davenport by adding functionality for collecting data about a time period that a dialog box is open, which will provide more user's interaction with the system to manufacturer. One would be motivated to do so to enhance the system's performance.

5. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Davenport (U.S. Patent Number 6,901,536).

As to claim 30, Davenport teaches utilizing cut, copy, paste, etc. button (Column 9, lines 1-13).

Davenport does not explicitly teach the claim limitation of "HELP" button.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Davenport by adding "HELP" button, which will make the system more users friendly. One would be motivated to do so to enhance the



system's usability.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Araujo et al. (U.S. Patent Number 6,981,041) discloses remotely accessing PC.
- Friedrich et al. (U.S. Patent Number 5,958,009) discloses efficiently monitoring quality service.
- Bunch (U.S. Patent Number 6,795,856) discloses method for monitoring internet access of a computer.
- Feinleib et al. (U.S. Patent Number 6,874,028) discloses method for unified registration information collection.
- Williams et al. (U.S. Patent Number 6,892,347) disclose technique for monitoring users activities on a web site.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faruk Hamza whose telephone number is 571-272-7969. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached at 571-272-4006. The fax

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phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll -free).

Faruk Hamza

Patent Examiner

Group Art Unite 2155



SALEH NASSAR  
SUPERVISORY PATENT EXAMINER